

**ORDER PASSED BELOW EXH.28 IN R.C.S.NO. 198/2015**

1] The present application is filed by plaintiffs for amendment of plaint under Order 6 Rule 17 of the Code of Civil Procedure,1908.

2] It is contention of the plaintiffs, the suit is filed for permanent injunction. Govinda Tukaram Payaghan (Marathe) died and his three sons namely Raju, Vishwanath, Shivaji and widow namely Tulsabai became owners by way of succession. Vishwanath Payaghan was not available at the time of filling of suit and he remained to be joined as plaintiff in the array of plaintiffs and as well as remained to be mention in the pleading of plaint. While drafting plaint such mistake occurred due to in inadvertence. It is necessary to amend the plaint to avoid further complication and technicalities. He further submitted that the proposed amendment would not change the nature of suit. In order to avoid multiplicity of the proceeding, he prayed to allow the application.

3] The defendants have filed their say and contested the application. The learned counsel for the defendants submitted that the plaintiffs have made mistake advertently with intent to prolong the matter. He prayed for rejection of an application. Further, he prayed that if application is allowed costs may be saddle.

4] Perused the application, say as well as record. Heard both sides. It appears that the plaintiffs have filed suit for permanent injunction. It is contention of the plaintiff that Vishwanath Govinda

Payaghan is one of the successor of deceased Govinda Tukaram Payaghan but due to inadvertence he has not joined in the array of plaintiffs. Being a successor of Govinda Tukaram Payaghan, he need to be join as plaintiff. It is to be noted that the defendant has not denied that the Vishwanath Payaghan is not a successor of Govinda Tukaram Payaghan. It is the only contention of the defendant that the plaintiff have filed present application with intent to prolong the matter.

5] It appears that Vishwanath Payaghan being a heirs of Govinda Tukaram Payaghan need to be join as plaintiff to the suit. It seems that the proposed amendment would not change the nature of suit. It would help to determine the real controversy involved in the suit. If the application is allowed, no prejudice would be caused to the defendants. Hence, I am inclined to allow the application and proceed to pass the following order.

**ORDER**

- 1] Application is allowed.
- 2] The plaintiffs are at liberty to carry out amendment mentioned in application within stipulated period and shall supply amended copy of plaint.
- 3] No order as to costs.

Date.02.03.2020.  
Washim

Sd/-  
(M.S.Poul)  
2<sup>nd</sup> Jt. Civil Judge, J.D., Washim

**Certificate**

I affirm that the contents of this P.D.F file Judgment/Order are same word to word, as per the original order.

Court Name : M. S.Poul,  
2<sup>nd</sup> Jt.C.J.J.D & J.M.F.C,Washim,  
Dist.Washim.  
Date : 02.03.2020.  
Order signed by the presiding officer on : 02.03.2020.  
Order uploaded on : 03.03.2020.  
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Stenographer Grade-III.